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Attorneys for Defendant/Counterclaimant,
KIRBY MORGAN DIVE SYSTEMS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SURFACE SUPPLIED, INC., a California
corporation,

Plaintiff/Counter-
Defendant,

vs.

KIRBY MORGAN DIVE SYSTEMS, INC.,
a California Corporation,

Defendant/Counterclaimant.

CASE NO. CV 13-0575 MMC

[Hon. Maxine M. Chesney]

**JOINT STIPULATION RE WAIVER
OF SERVICE BY HELIOX, INC.
AND JASON VAN DER SCHYFF
AND SETTING DEADLINES FOR
COUNTER-DEFENDANTS TO
RESPOND TO AMENDED
COUNTERCLAIMS OF KIRBY
MORGAN DIVE SYSTEMS, INC.;
ORDER THEREON**

AND RELATED COUNTERCLAIMS
AND COUNTERCLAIMS-IN REPLY

1 Whereas, on September 27, 2013, Kirby Morgan Dive Systems, Inc. (“Kirby
2 Morgan”) filed a Motion for Leave to File First Amended Counterclaims and Amend
3 Scheduling Order (the “Motion”), i.e. *see* Docket Entry No. 47;

4
5 Whereas, on December 5, 2013, the Court granted Kirby Morgan’s Motion,
6 ordering that the amended counterclaims be filed within 10 days of the date of the
7 order, i.e. *see* Docket Entry No. 69;

8
9 Whereas, on December 12, 2013, Kirby Morgan filed its First Amended
10 Counterclaims, i.e. *see* Docket Entry No. 75;

11
12 Whereas, the First Amended Counterclaims add new parties, Heliox, Inc.
13 (“Heliox”), a California corporation, and Jason Van der Schyff (“Van der Schyff”), an
14 individual residing in California;

15
16 Whereas, on December 17, 2013, John I. Alioto, Esq., presently counsel for
17 Surface Supplied, Inc., indicated to Kirby Morgan’s counsel, Daniel M. Cislo, Esq.,
18 that he and Tony P. Cascio, Esq., also presently counsel for Surface Supplied in this
19 action, would be representing Heliox and Van der Schyff and that they were authorized
20 to accept service of the First Amended Counterclaims on behalf of Heliox and Van der
21 Schyff;

22
23 Whereas, on December 17, 2013, counsel for the parties agreed that Heliox and
24 Van der Schyff would waive service of process in this action;

25
26 Whereas, on December 17, 2013, counsel for the parties agreed that, due to the
27 upcoming holidays, Heliox and Van der Schyff’s responsive pleading to Kirby
28 Morgan’s First Amended Counterclaims would be due on January 27, 2014;

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Whereas, on December 17, 2013, counsel for the parties agreed that, due to the upcoming holidays, Surface Supplied's responsive pleading to Kirby Morgan's First Amended Counterclaims would be due on January 10, 2014;

Whereas, this stipulation is not being entered into for purposes of delay; and

Whereas the parties desire that the aforementioned deadlines be entered as an order of the Court.

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned parties, by and through their respective counsel, that:

1. Surface Supplied's responsive pleading to Kirby Morgan's First Amended Counterclaims shall be due on January 10, 2014;
2. Heliox and Van der Schyff waive service of the First Amended Counterclaims; and
3. Heliox and Van der Schyff's responsive pleading to Kirby Morgan's First Amended Counterclaims shall be due on January 27, 2014.

Nothing in this stipulation shall represent a waiver or relinquishment of any rights, claims or defenses of the parties.

Dated: December 19, 2013

CISLO & THOMAS, LLP

By: s/Daniel M. Cislo
Daniel M. Cislo

Attorneys for Defendant/Counterclaimant,
KIRBY MORGAN DIVE SYSTEMS, INC.

Dated: December 19, 2013

ALIOTO & ALIOTO, LLP

By: s/John I. Alioto (with permission)
John I. Alioto

Attorneys for Plaintiff/Counter-Defendant,
SURFACESUPPLIED, INC. and Counter-
Defendants HELIOX, INC. and JASON
VAN DER SCHYFF

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: December 20, 2013

By:



Hon. Maxine M. Chesney
United States District Judge

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